to the words by the Queen's Bench. Subsequent to *Denham* v. *Spence*, the only other case reported is that of *Cherry* v. *Thompson*, (in the Queen's Bench) 26 L.T.N.S. 791, where all the judges—Cockburn, C.J., Blackburn, Lush and Quain, J.J.—unanimously affirm the construction put by their court upon the statute.

Thus the practice stands in about as great confusion as once obtained upon the question of security for costs, in cases where foreigners within the jurisdiction were suing in the English Courts—a subject lately discussed in this journal. With colonial deference for English precedents, it will be rather a nice matter for our judges now to say what court or what practice they will follow. We have no reported decisions on the section in question, but the practice, as we understand, has always been in Ontario to hold that it must be shown that the whole cause of action arose within the Province. But suppose a case now to be brought before the judges in term—how would they decide? Follow the holding of the Queen's Bench, as has often been done in matters of practice, where the English Courts were at variance? (Per Robinson, C.J., in *Gill* v. *Hodgson*, 1 Prac. R. 381). Or, hold that the decisions of the Common Pleas, *plus* the later decisions of the Exchequer, outweigh those of the Bench? It seems to us that the true way out of the quandary is the eminently sensible course adopted by Mr. Justice Wilson, in *Hawkins* v. *Paterson*, 8 P. R. 264, where he says, "I am not prepared to adopt as a rule that we are to follow the decisions of the Queen's Bench, in England, more than those of the other courts. * * I think we should exercise our own judgment as to which is the best rule and practice to adopt, if there be a difference in the English Courts, and adopt that which will be the most convenient and suitable for ourselves, whether it shall be the decision of the one court or the other."

In that case the learned judge gave effect to the practice of the Courts of Common Pleas and Exchequer as against that of the Queen's Bench. In the present conflict we incline to think (if we may speak without presumption, where great masters of the law differ) that the practice of the Queen's Bench should be preferred to that of the other common law courts. As a matter of verbal interpretation, we think "cause of action" should be taken to mean the *whole* cause of action. Such has been the uniform meaning attributed to it when used in the English County Courts Act and in our Division Courts Act.

Again, to hold that provincial courts can entertain a suit against a foreigner where, for instance, only the breach of contract has taken place within the jurisdiction and he is not personally served, may give rise to very grave questions of what is clumsily called "private international law," in case the defendant has no assets within the province and it is sought to make him liable on the judgment so obtained in the forum of his domicile.

This is just one of those troublesome questions that can only be settled by a gradual course of decision. As it is merely a matter of practice, it is thereby excluded from being a subject of error or appeal, so that each court is left to independent action, and to do what seems right in its own eyes.

We are indebted to the kindness of R. A. Fisher, who has been appointed General Secretary of the Judicature Commission in England in the place of Mr. Bradshaw, who has been made a County Court Judge, for an early copy of the Second Report of the Commissioners, dated August 6, 1872. It is an interesting document, and especially so in view of the somewhat similar commission now sitting in Ontario, which, by the way, we hear has been cancelled. We trust that the time and labour devoted to the subjects committed to the Commissioners will not prove to have been thrown away. Mr. Justice Gwynne has presided as chairman, since the resignation of Mr. Justice Wilson, who was compelled, we regret to say, to give up his position, from ill health and pressure of judicial duties. We propose in our next issue to reprint as much of the Second Report of the Judicature Commission as will interest Canadian readers.

It has been held in Chambers by Mr. Justice Gwynne in *Jameson* v. *Kerr*, that goods may be replevied out of the hands of a guardian in Insolvency, notwithstanding the provisions of Con. Stat. U. C. cap. 29, sec. 2. This is an important decision. The same point has arisen in Nova Scotia, but has not yet been decided, so far as we have heard.